



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JMS:JPM/DEL
F. #2020R00637

*271 Cadman Plaza East
Brooklyn, New York 11201*

February 24, 2022

By ECF

The Honorable Diane Gujarati
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Benjamin Castellazzo, et al.
Criminal Docket No. 21-466 (DG) (JRC)

Dear Judge Gujarati:

The government writes in response to the defendant Benjamin Castellazzo's letter application dated February 22, 2022 (ECF Dkt. No. 231), and in accord with the Court's February 23, 2022 minute order. In the application, Castellazzo's counsel requested that the defendant's appearance be waived for the March 4, 2022 status conference before the Court given his health concerns and seeks, in the alternative, to attend by video or telephone from the Metropolitan Detention Center ("MDC").

Pursuant to Federal Rule of Criminal Procedure 43(b)(3), a defendant need not be present at a status conference. See Fed. R. Crim. P. 43(b)(3) ("A defendant need not be present under any of the following circumstances . . . [if] the proceeding involves only a conference."). Therefore, the defendant can waive his appearance at the conference, and the government takes no position on that request.

However, the government opposes the defendant's application to appear by video or telephone for the status conference. The conference is scheduled to proceed in person for all fourteen charged defendants and their counsel. While it may be any number of the defendants' preference to appear remotely, as the Court is aware, there is logistical difficulty in arranging for remote appearances from the MDC for multiple defendants in a single case given the facility's limited time and technological availability. Defense counsel offers no argument that the Court or government is under an obligation to facilitate this defendant's preferred method of appearance, particularly when others were not given the same choice.

Accordingly, while the government takes no position on the defendant's request not to attend the status conference, the government respectfully submits that his request to attend remotely be denied.

Respectfully submitted,

BREON PEACE
United States Attorney

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